

United States
Circuit Court of Appeals
For the Ninth Circuit.

MID-CALIFORNIA CITRUS ASSOCIATION,
a Corporation,
Appellant,
vs.
FRED STEBLER,
Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for the
Southern District of California, Northern Division.

Filed

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F. D. Monckton,
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INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

	Page
Amendment to Answer	26
Answer	18
Assignment of Errors.....	34
Attorneys, Names and Addresses of.....	2
Bill of Complaint for Infringement of Letters Patent	3
Bond on Appeal	39
Certificate of Clerk U. S. District Court to Tran- script of Record	45
Citation	1
Decree	28
Names and Addresses of Attorneys.....	2
Order Allowing Appeal	38
Order Extending Time to and Including Feb- ruary 1, 1917, to File Record and Docket Cause	46
Order Extending Time to and Including April 1, 1917, to File Record and Docket Cause..	47
Petition for Order Allowing Appeal	32
Praecipe for Record on Appeal	43
Stipulation as to Record on Appeal.....	42

Citation.

UNITED STATES OF AMERICA,—ss.

The President of the United States, to Fred Stebler,
Greeting:

You are hereby cited and admonished to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at the City of San Francisco, in the State of California, within thirty (30) days from the date hereof, pursuant to an order allowing an appeal entered and of record in the clerk's office of the United States District Court for the Southern District of California, Northern Division, in suit in Equity No. A-45 therein, and wherein you are the complainant and appellee and Mid-California Citrus Association, is defendant and appellant, to show cause if any there be, why the decree of said Court made and entered therein enjoining defendant and appellant as in said decree set forth, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

WITNESS the Honorable OSCAR A. TRIPPET,
United States District Judge for the Southern District of California, Southern Division, this 21st day of November, 1916.

TRIPPET,

United States District Judge.

Due service of a copy of the above Citation is hereby acknowledged this 21st day of November, 1916.

FREDERICK S. LYON,

Solicitor for Complainant and Appellee. [3*]

*Page-number appearing at foot of page of original certified Transcript of Record.

[Endorsed]: No. A-45—E. United States Circuit Court of Appeals, for the Ninth Circuit. Mid-California Citrus Association, Appellant, vs. Fred Stebler, Appellee. Citation. Filed Nov. 21, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. [4]

Names and Addresses of Attorneys.

For Appellant:

NICHOLAS A. ACKER, Esq., Foxcroft Building, 68 Post Street, San Francisco, California.

For Appellee:

FREDERICK S. LYON, Esq., 504 Merchant Trust Building, 207 S. Broadway, Los Angeles, California. [5]

In the District Court of the United States of America, in and for the Southern District of California, Northern Division.

No. A-45—EQUITY.

FRED STEBLER,

Plaintiff,

vs.

MID-CALIFORNIA CITRUS ASSOCIATION,
Defendant. [6]

*United States District Court, Southern District of
California, Northern Division.*

IN EQUITY.

FRED STEBLER,

Plaintiff,

vs.

MID-CALIFORNIA CITRUS ASSOCIATION,
Defendant.

**Bill of Complaint for Infringement of Letters
Patent.**

Now comes Fred Stebler a citizen, resident and inhabitant of the city of Riverside, State of California, plaintiff, and files this his bill of complaint against Mid-California Citrus Association, a corporation, a citizen, inhabitant and resident of the city of Porterville, California, and complaining shows and alleges:

I.

That the ground upon which this Court's jurisdiction depends is that this is a suit in equity arising under the patent laws of the United States.

II.

That defendant, Mid-California Citrus Association, is a corporation organized and existing under and by virtue of the laws of the State of California and has its principal place of business at Porterville, California.

III.

That heretofore, to wit, prior to April 28, 1902,

one Robert Strain, then of Fullerton, California, was the original, first and sole inventor of a new and useful invention, to wit, a fruit grader, and on that day made application in due form of law to the Government of the United States for the grant, issuance [7] and delivery to him of letters patent of the United States therefor; that thereafter and prior to June 9, 1903, by an instrument in writing in due form of law duly signed by said Robert *Swain* and by him delivered to plaintiff, Fred Stebler, and Austin A. Gamble, the said Robert *Swain* did sell, assign, transfer and set over unto plaintiff and the said Austin A. Gamble the full and exclusive right, title and interest in and to the said invention and in and to the letters patent to be granted and issued therefor and did authorize and request the Commissioner of Patents to issue said letters patent jointly to plaintiff and the said Austin A. Gamble; that said instrument in writing was prior to June 9, 1903, duly and regularly recorded in the United States Patent Office; that thereafter such proceedings were duly and regularly had and taken in the matter of such application that, to wit, on June 9th, 1903, letters patent of the United States of America, No. 730,412, were duly and regularly granted and issued and delivered by the Government of the United States of America to your orator and the said Austin A. Gamble, whereby there was granted and secured to your orator and the said Austin A. Gamble, their heirs, legal representatives and assigns, for the full term of seventeen years (17), from and after said 9th day of June, 1903, the sole

and exclusive right, liberty and privilege of making, using and vending to others to be used the said invention throughout the United States of America and the territories thereof; that the said letters patent were duly issued in due form of law under the seal of the United States Patent Office and duly signed by the Commissioner of Patents, all as will more fully appear from said original letters patent or a duly certified copy thereof which are ready in Court to be produced by your orator, as may be required; and that prior to the grant, issuance and deliverance of the said letters patent all proceedings were [8] had and taken which were required by law to be had and taken prior to the issuance of letters patent for new and useful inventions.

IV.

And your orator further shows unto your Honors that on October 12th, 1903, the said Robert Strain and your orator and the said Austin A. Gamble discovered for the first time that the said letters patent were inoperative and insufficient and that the errors which rendered said Letters Patent No. 730,412 so inoperative and insufficient arose from the inadvertence, accident and mistake of the Commissioner of Patents of the United States and without any fraudulent intention on the part of the said Robert Strain or upon the part of your orator, or upon the part of said Austin A. Gamble; that said inadvertence, accident and mistake upon the part of the said Commissioner of Patents of the United States consisted in this, that after the said Robert Strain had duly filed in the United States Patent Office his application for

letters patent upon the said fruit grader, as aforesaid, one Charles Rayburn, did on August 18th, 1902, file in the United States Patent Office an application for letters patent upon said new and useful fruit grader and in said application did make certain claims as the original, true and first inventor thereof; that through the inadvertence, accident and mistake of the Commissioner of Patents a patent was issued to the said Charles Rayburn therefor, said letters patent being numbered 726,756, and were granted, issued and delivered to the said Charles Rayburn on April 28, 1903, and while the said Robert Strain's application for letters patent was pending in the United States Patent Office, as aforesaid, and the Commissioner of Patents did by inadvertence, accident and mistake fail and neglect to give notice to the said Robert Strain, or your orator, or said Austin A. Gamble, of said Charles Rayburn's application [9] for letters patent upon said fruit grader, and did fail and neglect to declare an interference proceedings between said Robert Strain and Charles Rayburn or the application of said Robert Strain and Charles Rayburn for letters patent upon said fruit grader, and did fail and neglect to determine whether the said Robert Strain or the said Charles Rayburn was the original, first and sole inventor of said fruit grader, and did fail and neglect to determine the question of priority of invention between said Robert Strain and said Charles Rayburn; that said Robert Strain and your orator and the said Austin A. Gamble first discovered this inadvertence, accident

and mistake upon the part of the Commissioner of Patents on October 12th, 1903, and did forthwith and immediately direct their attorneys to prepare an application for a reissue patent upon said Robert Strain's said invention in fruit grader; that said Robert Strain did make due application in writing, in due form of law, for a reissue of said letters patent, which said application was filed in the United States Patent Office on October 21st, 1903, by the said, Robert Strain with the full consent and allowance of your orator and the said Austin A. Gamble, and that thereafter due proceedings were had in the United States Patent Office in accordance with the statutes in such cases made and provided, and in accordance with the rules of the United States Patent Office, and that said Robert Strain was adjudged to be the original, first and sole inventor of said fruit grader and judgment of priority of invention was rendered and entered in the United States Patent Office in favor of Robert Strain and against said Charles Rayburn; and thereafter, to wit, on December 27th, 1904, the said Robert Strain and your orator and the said Austin A. Gamble having in all respects complied with the acts of Congress in such case made and provided, and having surrendered the said original letters patent No. 730,412, said letters patent were [10] canceled and new or amended letters patent which were marked "Reissue No. 12,297" were on the 27th day of December, 1904, in due form of law, granted, issued and delivered to your orator and the said Austin A. Gamble, which said reissue letters

patent are of record in the Patent Office of the United States, as will more fully and at large appear from said original reissued letters patent or a duly certified copy thereof ready here, in court to be produced, whereby there was granted and secured to your orator and the said Austin A. Gamble, their heirs, legal representatives and assigns, for the full term of seventeen years (17), from and after the 9th day of June, 1903, the sole and exclusive right, liberty and privilege of making, using and vending the said invention as described and claimed in said reissued letters patent throughout the United States of America and the territories thereof.

V.

And your orator further shows unto your Honors that the said invention so set forth, described and claimed in and by the said letters patent aforesaid is of great value and has been extensively practiced by your orator and by your orator and the said Austin A. Gamble, and that since the grant, issuance and delivery of the said letters patent the said fruit grader has gone into great and extensive use and your orator and said Austin A. Gamble have sold large numbers thereof and the same has substantially displaced all other forms of devices for said purpose and become the standard fruit grader; and upon each and every one of said fruit graders manufactured, used or sold by your orator or by your orator and said Austin A. Gamble, as aforesaid, your orator, and your orator and the said Austin A. Gamble have marked in bold and conspicuous letters the word "Patented" together with the day and date of issu-

ance of said letters patent, to wit, June 9th, 1903 and December 27th, 1904, [11] thereby notifying the public of said letters patent, and the trade and public have generally respected and acquiesced in the validity and scope of said letters patent and of the exclusive rights of your orator, and of your orator and said Austin A. Gamble therein and thereunder, and but for the wrongful and infringing acts of defendant, as hereinafter set forth, your orator would now continue to enjoy the said exclusive rights and the same would be of great and incalculable benefit and advantage of your orator, and the said defendant has been, long prior to the commencement of this suit, notified in writing of the grant, issuance and delivery of the said letters patent and of the rights of your orator thereunder, and has had full knowledge of your orator's said rights under said letters patent, and demand has been made upon defendant to respect the said letters patent and not to infringe thereon, but notwithstanding such notice the defendant has continued to make, use and sell fruit graders embodying the said invention, as hereinafter more particularly set forth.

VI.

Your orator further shows unto your Honors that heretofore, to wit, prior to the first day of January, 1910, by an instrument in writing in due form of law, duly signed by the said Austin A. Gamble, and delivered by him to your orator, the said Austin A. Gamble did sell, assign, transfer and set over unto your orator, his heirs and assigns, all his right, title and interest in and to the said fruit grader invention

and in and to the said letters patent aforesaid granted and issued therefor, and did thereby sell, assign, transfer and set over unto your orator, and vest in your orator, and your orator did become the sole and exclusive owner of the full and exclusive right, title and interest in and to the said fruit grader invention and in and to the said letters patent granted and issued [12] therefor, all as will more fully and at large appear from said original instrument in writing or a duly certified copy thereof ready in court to be produced as may be required.

VII.

That therefore, to wit, in May, 1910, plaintiff filed in the United States Circuit Court for the Southern District of California, his certain bill of complaint in equity wherein plaintiff was complainant and Riverside Heights Orange Growers Association and George D. Parker were defendants; that in said bill of complaint the invention of Robert Strain of the fruit grader hereinbefore referred to and the various proceedings hereinbefore set forth had and taken by said Robert Strain and plaintiff and plaintiff's assignor, Austin A. Gamble, in the United States Patent Office eventuating in the grant, issuance and delivery of the Letters Patent Reissue No. 12,297, were set up and pleaded and the assignment of said reissued letters patent to plaintiff and plaintiff's ownership thereof were likewise pleaded; that the infringement thereof by defendants, Riverside Heights Orange Growers Association and George D. Parker by the making, selling and using of machines

embodying and containing said invention in infringement of plaintiff's rights under said letters patent and without the license, consent or authority of plaintiff was pleaded and set up and an injunction prayed against the continuance by defendants [13] or either of them of such infringement and for the recovery of profits and damages, all as in and by said original bill of complaint or a duly certified copy thereof in court ready to be produced and may be required, will more fully and at large appear; that thereafter defendants filed their answer and said bill of complaint and suit were determined on the pleading and proofs adduced and an interlocutory decree and a final decree entered by this court in said cause ordering, adjudging and decreeing that said reissue letters patent No. 12,297 and claims 1 and 10 thereof in particular were valid and had been infringed by said defendants, and that plaintiff was the sole owner thereof, and that said defendants be enjoined as prayed for in the bill of complaint all as more fully and at large will appear from said original answer, interlocutory decree, final decree and files, records and proceedings of this Court in said suit ready in court to be produced as may be required.

VIII.

That heretofore, to wit, prior to May 12, 1908, plaintiff was the original, first and sole inventor of a certain new and useful distributing apparatus and on that day made application in due form of law to the Government of the United States for the grant, issuance and delivery to him of Letters Patent of the

United States therefor; that after due proceedings had and taken thereafter, to wit, on December 21, 1909, Letters Patent of the United States No. 943,799 were granted, issued and delivered to him in due form of law by the Government of the United States, that thereby there was granted and secured to plaintiff, his heirs, legal representatives and assigns the sole and exclusive right, liberty and privilege of making, using and vending the said invention throughout the United States of America and the territories thereof during the period of seventeen [14] years (17) from and after December 21, 1909, all as in and by said original letters patent or a duly certified copy thereof ready in court to be produced as may be required will more fully and at large appear; that a more particular description of the said invention patented in and by said letters patent will fully appear in and from the said letters patent.

IX.

That the trade and public have generally acquiesced in and acknowledged the validity of said reissued letters patent No. 12,297 and said letters patent No. 943,799 in and to the exclusive rights of plaintiff thereunder and under each thereof.

X.

That the said fruit graders set forth, described and claimed and covered in and by said reissue letters patent No. 12,297, and the said distributing apparatus set forth in and by said letters patent No. 943,799, are capable of embodiment in and conjoint use in one and the same apparatus and are so embod-

ied in and conjointly used in each of the machines and apparatus caused to be made and used by defendant; that all of the fruit graders and all of the distributing apparatus manufactured, used or sold by plaintiff, or manufactured, used or sold by plaintiff's assignors or licensees, have been marked with the word "Patented" together with the day and date of said respective letters patent, to wit, "December 27th, 1904, and December 21st, 1909," respectively; and the said defendant has been notified in writing by plaintiff that the machines and apparatus caused to be made and used by defendant are infringements of said letters patent, and each thereof, and demand has been made upon said defendant to cease the making or use thereof; that defendant refuses to refrain from using said infringing machines and apparatus.

[15]

XI.

That heretofore, to wit, on August 29th, 1910, plaintiff filed in the United States Circuit Court for the Southern District of California in an action at law, his declaration of trespass on the case wherein this plaintiff was plaintiff and the Pioneer Fruit Company was defendant; that in said declaration the invention by Robert Strain of the fruit grader hereinbefore referred to and the various proceedings hereinbefore set forth, had and taken by said Robert Strain and by your orator and your orator's said assignor, Austin A. Gamble, in the United States Patent Office eventuating in the grant, issuance and delivery of said reissue letters patent No. 12,297

were set up and pleaded and the assignment of said reissued letters patent to plaintiff and plaintiff's ownership thereof were likewise pleaded; that prior to August 29th, 1910, the defendant, Pioneer Fruit Company, had caused to be made and used machines conjointly, embodying and containing said invention in infringement of your orator's rights in and under said respective patents and without the license, consent or authority of plaintiff and damages because of such infringement were demanded, all as in and by said original declaration or a certified copy thereof ready in court to be produced will more fully and at large appear; that defendant, Pioneer Fruit Company, duly appeared and answered in said action at law, and that said action at law was on June 28th, 1911, called for trial before his Honor, Olin Wellborn, United States District Judge, without a jury, a jury having been waived by the parties, and on July 10th, 1911, this Court filed its findings of fact and conclusions of law, wherein it was found that Robert Strain was the original, first and sole inventor of the fruit grader set forth in claims 1 and 10 of said reissue patent, and that said reissue letters [16] patent, and said claims 1 and 10 thereof in particular, were valid letters patent and claims; that plaintiff was the owner of said letters patent; that the machines caused by the defendant, Pioneer Fruit Company, to be made and used prior to August 29th, 1910, were and are infringements upon said letters patent and upon each of the claims thereof specifically referred to in this paragraph of this bill of complaint, and that plaintiff was the owner of the

exclusive right to said respective letters patent and was entitled to judgment against defendant for the sum of Three Hundred and Seventy-seven Dollars (\$377) and costs, by reason of such infringement, and judgment for said sum was entered and docketed in favor of this plaintiff and against said defendant, all as will more fully and at large appear as in and by the findings of fact and conclusions of law and judgment rendered in said action at law, No. 207, aforesaid, the original of which or duly certified copies, are ready in court to be produced as may be required.

XII.

That since the grant, issuance and delivery of said letters patent respectively and within the six months last past and within the Southern District of California, the defendant without the license or consent of plaintiff has caused to be made and is now engaged in using machines and apparatus embodying the said respective patented inventions patented in and by said respective letters patent and that each of the machines so caused to be made and so used and now being used by defendant as aforesaid contains within it each of the said respective purposes and defendant intends to continue the use of said machines and apparatus embodying the said respective inventions in defiance of and without the license or consent of plaintiff under either of said letters patent and will continue so to do unless restrained [17] and enjoined by this court and has *has* realized and is now realizing large profits, gains and advantages from said infringement and unlawful acts and plaintiff has

suffered great and irreparable damage and injury; that plaintiff does not know the exact amount of such profit and therefore prays that an account may be taken of the profits and advantages derived by defendant therefrom and the damages suffered by plaintiff, and that defendant be ordered and directed to account and pay over unto plaintiff the profits so realized by defendant and the damages suffered by plaintiff by reason of such unlawful acts.

WHEREFORE PLAINTIFF PRAYS:

First. That upon the filing of this bill a preliminary injunction be granted to plaintiff enjoining and restraining the defendant, its officers, attorneys, servants, employees, agents, workmen and associates, and each and every thereof, from making, selling or using, or offering, threatening, advertising or contracting to make or use or sell any machine or apparatus containing the said invention or either thereof, or any machine or device capable of being used in infringement of said letters patent or either thereof or from directly or indirectly infringing upon said letters patent or either thereof in any manner whatsoever, or from aiding, abetting or contributing to any such infringement, whatsoever, and that upon final hearing the said writ of injunction be made permanent and final.

Second. That it be ordered, adjudged and decreed that plaintiff have and recover from defendant all the profits and advantages realized by the defendant and all the damages sustained by the plaintiff from said infringement, together with the costs of suit and such further, other or different relief [18] *relief* as to

this court may seem proper and be in accord with equity and good conscience.

FRED STEBLER.

FREDERICK S. LYON,

Solicitor and of Counsel for Plaintiff.

State of California,

County of Riverside,—ss.

Fred Stebler, being first duly sworn, on oath says that he is the plaintiff in the above-entitled suit and has read the foregoing bill of complaint and knows the contents thereof; that the same is true of his own knowledge.

FRED STEBLER.

Subscribed and sworn to this 3d day of November, 1915, before me,

[Seal]

M. J. TWOGOOD,

Notary Public in and for Riverside County, State of California.

[Endorsed]: No. ~~B-124~~ ~~Eq.~~ A-45—Eq. United States District Court, Southern District of California, Northern Division. Fred Stebler, Plaintiff, vs. Mid-California Citrus Association, Defendant. In Equity. Bill of Complaint. Filed Nov. 4, 1915. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk Frederick S. Lyon, 504-7 Merchants' Trust Building, Los Angeles, Cal., Solicitor for Complainant. [19]

In the United States District Court, Southern District of California, Northern Division.

IN EQUITY—No. A-45.

FRED STEBLER,

Plaintiff,

vs.

MID-CALIFORNIA CITRUS ASSOCIATION,
Defendant.

Answer.

Now comes the defendant to the above-entitled suit and for answer to the plaintiff's bill of complaint herein denies, admits and avers as follows:

I.

Admits that the ground upon which the Court's jurisdiction depends is that this is a suit in equity arising under the patent laws of the United States.

II.

Admits that the defendant, Mid-California Citrus Association is a corporation organized and existing under and by virtue of the laws of the State of California, and has its principal place of business at Porterville, California.

III.

Admits the averments contained in paragraph III of the bill of complaint on file herein.

IV.

Admits the averments contained in paragraph IV of the bill of complaint on file herein.

V.

Denies that the invention set forth, described and

claimed [20] in and by reissue letters patent No. 12,297, is of great value or of any value whatsoever, and denies that the same has been extensively practiced by the complainant herein, as set forth in paragraph V of the bill of complaint herein on file; and denies that by any wrongful act of this defendant, the complainant herein has been deprived of any enjoyment as to the alleged exclusive rights under the said reissue letters patent No. 12,297; and denies that the same would be of great and incalculable benefit and advantage to the plaintiff except for the acts of the defendant herein; and denies in this connection that it has made, used or sold, or is now engaged in making, using or selling any fruit grader or graders embodying the invention of the said Reissue Letters Patent.

VI.

Admits the allegations contained in paragraph VI of the bill of complaint herein on file.

VII.

Admits the allegations contained in paragraph VII of the bill of complaint herein on file.

VIII.

Defendant denies that it has in any manner or in any form whatsoever infringed or encroached on any right or rights, secured to the plaintiff herein in and by the said reissue letters patent; and denies that the protection afforded in and by the said reissue letters patent are of such a character as to embrace any fruit grading machine being used by it in connection with its business of grading and packing of fruit; and in this connection avers that, by reason of the

prior art existing long prior to the date of the alleged invention of the said reissue letters patent, the said invention embraced in the said alleged reissue letters patent is so restricted as to preclude the fruit grader used by the defendant falling within [21] the protection afforded by any claim or claims of the said reissue letters patent; and, as showing the prior state of the art as it existed prior to the date of the invention set forth in the bill of complaint on file herein for the invention embraced in the reissue letters patent, defendant sets forth the following letters patent of the United States as constituting the prior art, to wit:

Name of Patentee.	Number of Patent.	Date of Patent.
H. H. Hutchins	456,092	July 14, 1891.
H. B. Stevens	247,428	Sept. 20, 1881.
J. T. Ish	458,422	Aug. 25, 1891.
J. A. Jones	430,031	Oct. 10, 1890.
M. P. Richards	654,281	July 24, 1900.
H. H. Hutchins	456,092	July 14, 1891.
A. Cerruti	534,783	Feb. 26, 1895.
J. J. White	731,828	June 23, 1903.
B. H. Vellines	364,977	June 14, 1887.
C. D. Nelson	713,484	Nov. 11, 1902.
R. W. Widney	788,618	May 2, 1905.

IX.

Denies that prior to the 12th day of May, 1908, or at any other time, Fred Stebler, plaintiff herein, mentioned in paragraph VIII of the bill of complaint on file herein, was the original, first and sole inventor, or any inventor, of the alleged new and

useful distributing apparatus, or of any other device. Admits that on the 21st day of December, 1909, certain alleged and pretended letters patent of the United States, dated on that date, and numbered 943,799, were granted, issued and delivered by the Government of the United States unto the said Fred Stebler, plaintiff herein; but in that behalf denies that by said pretended letters patent there was granted unto the said Fred Stebler, plaintiff herein, his heirs, legal representatives and assigns, for the full term of [22] seventeen years from the said 21st day of December, 1909, the sole and exclusive right and privilege of making, using and vending the said invention throughout the United States of America and the territories thereof, and in that behalf avers that said alleged letters patent are wholly void and of no effect for reasons hereinafter stated.

X.

Denies that the trade and public generally acquiesced in and acknowledged the validity of the said reissue letters patent No. 12,297 and said letters patent No. 943,799 in and to the exclusive rights of the plaintiff.

XI.

Denies that the fruit graders set forth, described, and claimed and covered in and by said reissue letters patent No. 12,297, and the said distributing apparatus set forth in and by said letters patent No. 943,799, are capable of embodiment and conjoint use in one and the same apparatus, and that the same are so embodied and conjointly used in the machines and

apparatus caused to be made and used by this defendant as alleged in paragraph X of the bill of complaint herein on file; and denies that the defendant has refused to refrain from using machines infringing the devices set forth, described, and claimed and covered in and by said reissue letters patent No. 12,297, and the said distributing apparatus set forth in and by said letters patent No. 943,799, as averred in paragraph X of the said bill of complaint on file herein.

XII.

Answering paragraph XI of the bill of complaint herein on file, defendant avers that it has no knowledge, information or belief on the subject thereof sufficient to enable it to make answer to the allegations thereof, or any of them, and leaves plaintiff to [23] make such proof thereof as he may be advised is proper.

XIII.

Denies that since the grant, issuance and delivery of said letters patent respectively, and within six months last past, and within the Southern District of California, or elsewhere, it has, without the license or consent of the plaintiff, caused to be made, and is now engaged in using machines and apparatus embodying the said respective patented inventions patented in and by the said respective letters patent, and that the machine or machines so caused to be made and so used and now being used by the defendant, contains within it each of the said respective patented devices; and denies that it intends to continue

to use any machine or machines or apparatus embodying the said respective inventions in defiance of and without the license or consent of plaintiff under either or both of said letters patent set forth in the bill of complaint herein on file; and denies that it will continue to use any machine or machines infringing the rights of the plaintiff herein unless enjoined by this Court; and denies that it has realized and is now realizing large profits, gains and advantages, or any profits, against and advantages from any alleged infringing and unlawful act; and denies that plaintiff has suffered great and irreparable damage and injury by reason of any act of this defendant.

XIV.

And for a further and separate defense in respect to said letters patent No. 943,799, defendant avers on information and belief that the said Fred Stebler, mentioned in the bill of complaint herein as being the original, first and sole inventor of the thing attempted to be patented in and by said letters patent, was not the original, first and sole inventor thereof; but on the contrary, avers that long prior to and before the alleged invention [24] or discovery thereof by the said Fred Stebler, the thing attempted to be patented in and by said letters patent had been patented in and by certain letters patent issued by the Government of the United States on the following-named dates and bearing the following numbers, viz.:

Name of Patentee.	Number of Patent.	Date of Patent.
W. C. Anderson	Reissue 12,459	Feb. 27, 1906.
H. A. Beekhuis	906,605	Dec. 15, 1908.
Thomas Strain	775,015	Nov. 15, 1904.
C. Rayburn	741,928	Oct. 20, 1903.
G. D. Parker	958,164	May 17, 1910.
F. F. Backstrom	835,805	Nov. 13, 1906.

XV.

Denies that the said Fred Stebler was the original, first and sole inventor of the thing sought to be patented under and by said letters patent No. 943,799, or any material or substantial part thereof, but that long prior to the supposed invention and discovery thereof the same was known to and used by various persons and corporations whose names are at this time unknown to this defendant and cannot be specified at this time, and defendant prays leave of the Court to amend this answer by specifying the names of such parties as soon as defendant ascertains the same.

XVI.

And further answering, defendant avers upon information and belief that the said letters patent No. 943,799, mentioned in plaintiff's bill of complaint on file herein, are void and of no effect, for the reason that it did not require the exercise of the inventive faculty to produce the same, but only mechanical skill such as is possessed by persons skilled in the particular art to which the same referred. [25]

XVII.

Denies that the invention described, set forth and claimed in and by reissue letters patent No. 12,297,

has substantially displaced all other forms of devices for the purposes set forth and described in the said letters patent, and denies that the same has become the standard fruit grader, as set forth in paragraph V of the bill of complaint herein on file.

WHEREFORE, having fully answered, defendant prays to be hence dismissed with its costs in this behalf sustained.

N. A. ACKER,
Attorney for Defendant. [26]

State of California,
County of Tulare,—ss.

F. L. Kennedy, being first duly sworn, on oath says: That he is the secretary and manager of the defendant corporation in the above-entitled suit, and that he has read the foregoing answer to the plaintiff's bill of complaint herein; that the same is true of his own knowledge except as to such matters and things as are therein stated on information and belief, and that as to the latter, he believes the same to be true.

F. L. KENNEDY.

Subscribed and sworn to before me this 27 day of November, 1915.

J. F. WRIGHT,
Notary Public in and for the County of Tulare, State of California.

[Endorsed]: In Equity. No. A-45. U. S. District Court, Southern District of California, Northern Division. Fred Stebler, Plaintiff, vs. Mid-California Citrus Association, Defendant. Answer.

Filed Dec. 3, 1915. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Nicholas A. Acker, Attorney at Law, Foxcroft Building, 68 Post Street, San Francisco, Cal., for Defendant. [27]

In the United States District Court, Southern District of California, Northern Division.

IN EQUITY—No. A-45.

FRED STEBLER,

Plaintiff,

vs.

MID-CALIFORNIA CITRUS ASSOCIATION,
Defendant.

Amendment to Answer.

The answer of the defendant on file herein is hereby amended as follows:

Page 3, of the answer, between lines 18 and 19 thereof insert:

R. M. Widney....788619....May 2, 1905.

Further answering this defendant denies that the said Robert Strain was the original, first or sole inventor or any inventor at all of the thing sought to be patented in and by said reissue letters patent No. 12,297, or any material or substantial part thereof, and in this connection states that long prior to the supposed invention or discovery thereof by the said Robert Strain, the same was known to and used by the following persons and corporations, viz.: Robert M. Widney of Fernando, State of California; Howard B. Stevens of Citra, County of Marion, State of

Florida; M. A. Rice of Citra, County of Marion, State of Florida; R. C. Douglass of Citra, County of Marion, State of [28] Florida; J. C. Greener of Citra, County of Marion, State of Florida; A. S. Kells of Citra, County of Marion, State of Florida; Thorndike C. Jameson of Corona, County of Riverside, State of California; F. E. Proud of La Habra, State of California; used in the packing-house of W. H. Jameson, situated at Corona, County of Riverside, State of California, and was known to various other persons and corporations whose names and addresses are at this time unknown to this defendant and cannot be stated at this time, but defendant prays leave of the court to amend this answer by specifying the names of such parties as soon as the defendant ascertains the same.

Page 6, line 18, erase the word "various" and insert—H. A. Beekhuis of Hanford, Fresno County, State of California; L. E. Tucker of Upland, State of California; George D. Parker, of Riverside, County of Riverside, State of California; used by the California Fruit Canners Association in its packing-house situated at Hanford, County of Fresno, State of California; used by the Arlington Heights Fruit Company in its packing-house situated at Arlington, County of Riverside, State of California; used by the Upland Citrus Association in its packing-house situated at Upland, State of California, and known to and used by various others.

MID-CALIFORNIA CITRUS ASSN.

By N. A. ACKER,

Solicitor and Counsel for Deft. [29]

[Endorsed]: No. A-45. U. S. District Court, Southern District of California, Northern Division. Fred Stebler, Plaintiff, vs. Mid-California Citrus Association, Defendant. Amendment to Answer. Feby. 4, 1916. Received a copy of the within Amendment and same is stipulated and consented to. Frederick S. Lyon, Solr. for Plaintiff. Filed Apr. 4, 1916. Wm. M. Van Dyke, Clerk. By R. S. Zimmerman, Deputy Clerk. Nicholas A. Acker, Attorney at Law, Foxcroft Building, 68 Post Street, San Francisco, Cal., for Defendant. [30]

COPY.

*United States District Court, Southern District of
California, Northern Division.*

IN EQUITY—A-45.

FRED STEBLER,

Plaintiff,

vs.

MID-CALIFORNIA CITRUS ASSOCIATION,
Defendant.

Decree.

The above-entitled suit, having come on regularly for hearing upon the evidence and proofs educed on behalf of the respective parties, Frederick S. Lyon, Esq., appearing on behalf of plaintiff and N. A. Acker, Esq., on behalf of defendant, now upon due consideration thereof, it is

ORDERED, ADJUDGED AND DECREED,

1. That reissue letters patents of the United States No. 12,297, dated December 27, 1904, are good and

valid in law, particularly as to claims 1 and 10 thereof, and that plaintiff, Fred Stebler, is the owner thereof and of all the rights and privileges granted and secured thereby.

2. That letters patent of the United States No. 943,799, dated Dec. 21, 1909, are good and valid in law, particularly as to claims 1, 2, 3, 5, 6, 7, 8, 11, 14, 15 and 19; that plaintiff is the owner thereof [31] and of all the rights and privileges granted and secured thereby.

3. That the respective inventions set forth described and claimed in and by said reissue letters patent No. 12,297 and said letters patent No. 943,799 are capable of embodiment in and conjoint use in one and the same apparatus or machine; that all the fruit graders and all of the distributing apparatus manufactured, used or sold by plaintiff or by plaintiff's assignors or licensees have been plainly and conspicuously marked with the word "Patented," together with the day and date of said respective letters patent, to wit, Dec. 27, 1904, and Dec. 21, 1909; that defendant prior to installing the machines hereinafter found to be an infringement was notified in writing by plaintiff that said machines were an infringement of said respective letters patent, and demand was made upon defendant that defendant cease the completion of said machines or the use thereof; that defendant refused to refrain from using said infringing machines or any thereof.

4. That defendant has infringed upon said reissue letters patent No. 12,297, particularly as to claims 1 and 10 thereof and upon said letters patent

No. 943,799, particularly as to claims 1, 2, 3, 5, 6, 7, 8, 11, 14, 15 and 19 thereof by causing to be erected in its packing-house at Porterville, California, by George D. Parker, of Riverside, California, and without the license or consent of plaintiff or plaintiff's assignor, certain fruit grading and distributing machines and using the same [32] therein; that each of said combined fruit grading and distributing machines contains in it the invention set forth, described and claimed in and by said reissue letters patent No. 12,297, as particularly set forth claims 1 and 10 thereof, and the invention set forth, described and claimed in and by said letters patent No. 943,799, as particularly set forth in claims 1, 2, 3, 5, 6, 7, 8, 11, 14, 15 and 19 thereof; that this suit has been defended on behalf of defendant by and at the cost and expense of said George D. Parker, the manufacturer of said infringing machines.

5. That a perpetual injunction issue out of and under the seal of this court directed to said defendant, Mid-California Citrus Association, its officers, attorneys, agents, servants, workmen, clerks and associates, enjoining and restraining them and each and every of them from in any manner making, selling, using or offering for sale, or advertising or contracting to make or use or sell or dispose of in any manner whatsoever either directly or indirectly, any machine or device or apparatus containing either the invention set forth, described and claimed in or by said reissue letters patent No. 12,297, as particularly set forth in claims 1 and 10 thereof, or in or by said letters patent No. 943,799, particularly as set forth

in claims 1, 2, 3, 5, 6, 7, 8, 11, 14, 15 and 19 thereof, or any machine or device capable of being used in infringement of either of said letters patent and from directly or indirectly infringing upon either of said letters patent in any manner whatsoever, or from aiding or abetting or contributing to any such infringement in any manner whatsoever, and from any further use of the said machines so installed in its said packing-house at Porterville, Calif., by said George D. Parker; and from at any time whatsoever in any manner making use of those certain adjustable means whereby [33] the roller sections may be adjusted toward or away from the grading belt; and from maintaining in any of said machines the slotted brackets by means of which the roller sections are supported unless the slots of such brackets are permanently sealed by some substance such as babbitt metal permanently fixing said brackets and rollers against adjustment.

6. That complainant do have and recover judgment against defendant, Mid-California Citrus Association, for the sum of \$51.90, plaintiff's costs and disbursements in this suit.

Dated Los Angeles, California, November 20, 1916.

OSCAR A. TRIPPET,

District Judge.

Decree entered and recorded November 20th, 1916.

WM. M. VAN DYKE,

Clerk.

By Chas. N. Williams,

Deputy Clerk.

[Endorsed]: No. A-45. United States District Court, Southern District of California, Northern Division. Fred Stebler, Plaintiff, vs. Mid-California Citrus Association, Defendant. In Equity. Decree. Filed Nov. 20, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Frederick S. Lyon, 504-7 Merchants Trust Building, Los Angeles, Cal., Solicitor for Plaintiff. [34]

United States District Court, Southern District of California, Northern Division.

IN EQUITY.

FRED STEBLER,

Plaintiff,

vs.

MID-CALIFORNIA CITRUS ASSOCIATION,
Defendant.

Petition for Order Allowing Appeal.

The Mid-California Citrus Association, defendant in the above-entitled cause, conceiving itself aggrieved by the interlocutory order and decree filed and entered on the 20th day of November, A. D. 1916, in the above-entitled cause, whereby an injunction was granted against this defendant, now comes by N. A. Acker, Esq., its solicitor and counsel, and petitions said court for an order allowing it, Mid-California Citrus Association, to prosecute an appeal from said interlocutory order and decree to the Honorable the United States Circuit Court of Appeals for the Ninth Circuit, under and according to the laws of the United States in that behalf made and

provided; and that a transcript of the record, testimony, exhibits and all proceedings and papers upon which said interlocutory order and decree was made, duly authenticated, may be sent to the United States Court of Appeals for the Ninth Circuit; and also that an order be made fixing the amount of security which defendant, Mid-California Citrus Association, shall give and furnish upon such appeal, and that upon giving such security, all further proceedings in this court excepting the injunction be suspended and stayed until the determination of said appeal by the United States Circuit Court of Appeals for the Ninth Circuit. And now, at the time of filing this petition for order allowing appeal, the said Mid-California Citrus Association, [35] petitioner, files its assignment of errors, setting up separately and particularly, each error asserted and intended to be urged in the United States Circuit Court of Appeals for the Ninth Circuit.

And your petitioner will ever pray.

MID-CALIFORNIA CITRUS ASSOCIATION.

By N. A. ACKER,
Solicitor for Defendant.

[Endorsed]: No. 45. U. S. District Court, Southern District of California, Northern Division, Fred Stebler, Plaintiff, vs. Mid-California Citrus Association, Defendant. Petition for Order Allowing Appeal. Filed Nov. 20, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Nicholas A. Acker, Attorney at Law, Foxcroft Building, 68 Post Street, San Francisco, Cal., for Defendant. [36]

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

IN EQUITY.

MID-CALIFORNIA CITRUS ASSOCIATION,
Appellant,

vs.

FRED STEBLER,

Appellee.

Assignment of Errors.

Now comes Mid-California Citrus Association, the defendant in the cause of the court below, entitled, Fred Stebler, Plaintiff, vs. Mid-California Citrus Association, Defendant, No. A-45, in the United States District Court, Southern District of California, Northern Division, and appellant herein, by N. A. Acker, Esq., its solicitor and counsel, and says, that in the record and proceedings in said cause in the court below, there was manifest error and it particularly specified the following as the errors upon which it will rely, and which it will urge upon its appeal in the above-entitled court.

I.

That the District Court of the United States for the Southern District of California, Northern Division, erred in holding that United States Letters Patent #943,799 issued December 21, 1909, to Fred Stebler for distributing apparatus, mentioned in the bill of complaint in this cause, are good and valid in law, particularly as to claims 1, 2, 3, 4, 5, 6, 7, 8, 11, 14, 15 and 19 thereof.

II.

That the United States District Court for the Southern District of California Northern Division, erred in holding that [37] Fred Stebler was the original and first inventor of the invention described and claimed in and by said letters patent, and more particularly as to claims 1, 2, 3, 4, 5, 6, 7, 8, 11, 14, 15 and 19.

III.

That the United States District Court for the Southern District of California, Northern Division, erred in holding that the defendant, Mid-California Citrus Association has infringed upon said letters patent #943,799 and more particularly claims 1, 2, 3, 4, 5, 6, 7, 8, 11, 14, 15 and 19 or upon any of its said mentioned claims, and upon the exclusive rights of the complainant, by making, using and selling the inventions claimed and patented in and by any and all of the said mentioned claims 1, 2, 3, 4, 5, 6, 7, 8, 11, 14, 15 and 19 of said letters patent #943,799.

IV.

That the District Court of the United States for the Southern District of California, Northern Division, erred in holding each and all of the allegations in the bill of complaint in this cause to be true, with respect to said letters patent #943,799 and more particularly as to claims 1, 2, 3, 4, 5, 6, 7, 8, 11, 14, 15 and 19 thereof.

V.

That the United States District Court for the Southern District of California, Northern Division, erred in holding that a perpetual injunction be is-

sued in this cause against the defendant, its officers, agents, servants and employees, enjoining and restraining them and each of them from making, using or selling any apparatus embodying and containing any of the inventions or improvements described and claimed in said letters patent #943,799, and more particularly as to claims 1, 2, 3, 4, 5, 6, 7, 8, 11, 14, 15 and 19 thereof.

VI.

That the United States District Court for the Southern [38] District of California, Northern Division, erred in holding the defendant, Mid-California Citrus Association to be liable for and directing the complainant, Fred Stebler, to recover of and from it, the profits, gains and advantages which the defendant has received or made from the said infringement, and also the damages which complainant has sustained thereby, by reason of the alleged infringement of United States Letters Patent #943,799 and particularly as to claims 1, 2, 3, 4, 5, 6, 7, 8, 11, 14, 15 and 19 thereof.

VII.

That the United States District Court for the Southern District of California, Northern Division, erred in holding that United States Letters Patent #943,799, mentioned in the bill of complaint in this case, disclosed a patentable combination or any invention at all, particularly as to claims 1, 2, 3, 4, 5, 6, 7, 8, 11, 14, 15 and 19 thereof.

VIII.

That the United States District Court for the Southern District of California Northern Division,

erred in holding that the defendant, Mid-California Citrus Association, has infringed upon reissue letters patent #12,297 and more particularly claims 1 and 10 thereof.

IX.

That the United States District Court for the Southern District of California, Northern Division, erred in not dismissing the bill of complaint in this cause.

X.

That the United States District Court for the Southern District of California, Northern Division, erred in holding that the complainant is entitled to recover any costs herein from the defendant.

All of which is respectfully submitted.

MID-CALIFORNIA CITRUS ASSOCIATION.

By N. A. ACKER,

Its Solicitor and Counsel. [39]

[Endorsed]: No. A-45—Eq. U. S. Circuit Court of Appeals, for the Ninth Circuit. In Equity. Mid-California Citrus Association, Appellant, vs. Fred Stebler, Appellee. Assignment of Errors. Filed Nov. 20, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Nicholas A. Acker, Attorney at Law, Foxcroft Building, 68 Post Street, San Francisco, Cal., for Appellant. [40]

*United States District Court, Southern District of
California, Northern Division.*

IN EQUITY—A-45.

FRED STEBLER,

Plaintiff,

vs.

MID-CALIFORNIA CITRUS ASSOCIATION,

Defendant.

Order Allowing Appeal.

Upon the filing of the petition for order allowing appeal, and the filing of the assignment of errors accompanying the same, on motion of N. A. Acker, Esq., solicitor for Mid-California Citrus Association, defendant in the above-entitled cause, it is ordered that an appeal to the United States *Circuit of Appeals* for the Ninth Circuit from the interlocutory order and decree granting an injunction against said defendant, filed and entered herein on the 20th day of November, A D. 1916, be and the same is hereby allowed; and that a transcript of the record, exhibits and all proceedings and papers herein be forthwith transmitted to said United States Circuit Court of Appeals for the Ninth Circuit, and it is further ordered that the said Mid-California Citrus Association give a bond in the sum of Two Hundred Fifty no/100 (\$250) Dollars, with good and sufficient security to be approved by the Court.

OSCAR A. TRIPPET,

District Judge.

November 20th, 1916. [41]

[Endorsed]: No. A-45. U. S. District Court, Southern District of California, Northern Division, Fred Stebler, Plaintiff, vs. Mid-California Citrus Association, Defendant. Order Allowing Appeal. Filed Nov. 20, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Nicholas A. Acker, Attorney at Law, Foxcroft Building, 68 Post Street, San Francisco, Cal., for Defendant. [42]

*United States District Court, Southern District of
California, Northern Division.*

IN EQUITY—A-45.

FRED STEBLER,

Plaintiff,

vs.

MID-CALIFORNIA CITRUS ASSOCIATION,
Defendant.

Bond on Appeal.

KNOW ALL MEN BY THESE PRESENTS:
That the United States Fidelity & Guaranty Company, a corporation, existing under and by virtue of the laws of the State of Maryland, and duly licensed to transact business in the State of California, is held and firmly bound unto Fred Stebler, plaintiff in the above-entitled court, in the penal sum of Two Hundred & Fifty (\$250) Dollars, to be paid to Fred Stebler, his heirs, assigns and legal representatives, for which payment well and truly to be made the Fidelity and Deposit Company of Maryland binds itself, its successors and assigns firmly by these presents.

Sealed with corporate seal and dated this 20th day of November, 1916.

The condition of the above obligation is such that whereas the Mid-California Citrus Association, defendant in the above-entitled suit, is about to take an appeal to the United States Circuit Court of Appeals for the Ninth Circuit to reverse the interlocutory order and decree made, rendered and entered on the 20th day of November, 1916, by the United States District Court for the Southern District of California, Northern Division, in the above-entitled cause. [43]

NOW, THEREFORE, if the above-named appellant shall prosecute said appeal to effect, and answer all costs which may be adjudged against it, if it fails to make good its appeal, then, this obligation shall be void; otherwise, to remain in full force and effect.

UNITED STATES FIDELITY & GUAR-
ANTY COMPANY.

[Seal]

By W. H. SCHRODER,

Its Attorney in Fact.

Approved:

TRIPPET,

District Judge.

State of California,

County of Los Angeles,—ss.

On this 20th day of November, in the year one thousand nine, hundred and sixteen, before me Hallie D. Winebrenner, a notary public in and for said county and state, residing therein, duly commissioned and sworn, personally appeared W. H. Schroder, known to me to be the duly authorized

attorney-in-fact of the United States Fidelity and Guaranty Company, and the same person whose name is subscribed to the within instrument as the attorney-in-fact of said company, and the said W. H. Shroder duly acknowledged to me that he subscribed the name of the United States Fidelity and Guaranty Company thereto as principal and his own name as attorney-in-fact.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Seal] HALLIE D. WINEBRENNER,
Notary Public in and for Los Angeles County, State
of California. [44]

[Endorsed]: No. A-45. U. S. District Court,
Southern District of California, Northern Division.
Fred Stebler, Plaintiff, vs. Mid-California Citrus
Association, Defendant. Bond on Appeal. Service
of the within ——— admitted this — day of
——— A. D., 191—. ——— for ———.
Filed Nov. 20, 1916. Wm. M. Van Dyke, Clerk.
By Chas. N. Williams, Deputy Clerk. Nicolas A.
Acker, Attorney at Law, Foxcroft Building, 68 Post
Street, San Francisco, Cal., for Defendant. [45]

In the United States District Court Southern District of California, Northern Division.

IN EQUITY—A-45.

FRED STEBLER,

Plaintiff,

vs.

MID-CALIFORNIA CITRUS ASSOCIATION,
Defendant.

Stipulation as to Record on Appeal

In order to save expense, it is hereby stipulated by and between counsel for the respective parties to the above-entitled suit that the record on appeal to the Circuit Court of Appeals for the Ninth Circuit, in this suit, shall comprise, Bill of Complaint, Answer to Bill of Complaint, Amended Answer of Defendant to Bill of Complaint, Decree of the Court, Petition for Order Allowing Appeal, Order Allowing Appeal, Assignment of Errors, Bond on Appeal, Stipulation of Counsel; and that in the Circuit Court of Appeals the said Appeal shall be heard on the printed record in companion appeal case entitled, Porterville Citrus Association, Appellant, vs. Fred Stebler, Appellee, and in the lower Court, Fred Stebler vs. Porterville Citrus Association, No. A-44, and that this appeal may be heard on the printed record of said appeal case, Porterville Citrus Association vs. Fred Stebler, and abide by the decision of the Circuit Court of Appeals, rendered in connection with said appeal.

Dated San Francisco, Nov. 28, 1916.

MID-CALIFORNIA CITRUS ASSOCIATION,

By N. A. ACKER,
FRED STEBLER,
By FREDERICK LYON. [46]

[Endorsed]: No. A-45. U. S. District Court, Southern District of California, Northern Division. Fred Stebler, Plaintiff, vs. Mid-California Citrus Association, Defendant. Stipulation. Filed Dec. 6, 1916, Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Nicholas A. Acker, Attorney at Law, Foxcroft Building, 68 Post Street, San Francisco, Cal., for Defendant. [47]

In the United States District Court Southern District of California, Northern Division.

IN EQUITY—No. A-45.

FRED STEBLER,

Plaintiff,

vs.

MID-CALIFORNIA CITRUS ASSOCIATION,
Defendant.

Praeipce for Record on Appeal.

To the Clerk of the Above-entitled Court:

You will please prepare and certify to the clerk of the United States Circuit Court of Appeals, for the Ninth Circuit, copies of the following documents, the same constituting Transcript on Appeal to said Circuit Court of Appeals for the Ninth Circuit, viz:

Bill of Complaint.

Answer to Bill of Complaint.

Amended Answer of Defendant to Bill of Complaint.

Decree of the Court.

Petition for Order Allowing Appeal.

Order Allowing Appeal.

Assignment of Errors.

Bond on Appeal.

Stipulation of Counsel.

Dated San Francisco, Calif., November 28th, 1916.

MID-CALIFORNIA CITRUS ASSOCIATION,

By N. A. ACKER,

Its Solicitor. [48]

[Endorsed]: No. A-45. U. S. District Court, Southern District of California, Northern Division. Fred Stebler, Plaintiff, vs. Mid-California Citrus Association, Defendant. *Recipe*. Filed Dec. 1, 1916. Wm. M. Van Dyke, Clerk. By Chas. N. Williams, Deputy Clerk. Nicholas A. Acker, Attorney at Law, Foxcroft Building, 68 Post Street, San Francisco, Cal., for Defendant. [49]

In the District Court of the United States of America, in and for the Southern District of California, Northern Division.

No. A-45—EQUITY.

FRED STEBLER,

Complainant,

vs.

MID-CALIFORNIA CITRUS ASSOCIATION,
Defendant.

**Certificate of Clerk U. S. District Court to
Transcript of Record.**

I, Wm. M. Van Dyke, clerk of the District Court of the United States of America, in and for the Southern District of California, do hereby certify the foregoing forty-nine typewritten pages, numbered from 1 to 49, inclusive, and comprised in one volume, to be a full, true and correct copy of the Bill of Complaint, Answer of Defendant, Amended Answer of Defendant, Decree of the Court, Petition for Order Allowing Appeal, Assignment of Errors, Order Allowing Appeal, Bond on Appeal, Stipulation of Counsel as to Record on Appeal, and Praecipe for Record on Appeal in the above and therein entitled cause, and that the same together constitute the record on appeal in said cause as specified in the said praecipe filed in my office on behalf of the appellant by its solicitor of record.

I do further certify that the cost of the foregoing record is \$21.10, the amount whereof has been paid me by the Mid-California Citrus Association, the appellant herein.

IN TESTIMONY WHEREOF I have hereunto set my hand and affixed the seal of the District Court of the [50] United States of America, in and for the Southern District of California, this 28th day of March, in the year of our Lord one thousand nine hundred and seventeen and of our Independence the one hundred and forty-first.

[Seal] WM. M. VAN DYKE,
Clerk of the District Court of the United States of
America, in and for the Southern District of
California. [51]

[Endorsed]: No. 2961. United States Circuit Court of Appeals for the Ninth Circuit. Mid-California Citrus Association, a Corporation, Appellant, vs. Fred Stebler, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Southern District of California, Northern Division.

Filed March 29, 1917.

F. D. MONCKTON,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

MID-CALIFORNIA CITRUS ASSOCIATION,
Appellant,

vs.

FRED STEBLER,

Appellee.

**Order Extending Time to and Including February
1, 1917, to File Record and Docket Cause.**

Good cause appearing therefor, it is hereby ordered that the time for filing the record and docketing the cause in the United States Circuit Court of Appeals in the above-entitled cause to be extended to and including the 1st day of February, 1917.

Los Angeles, California, December 13, 1916.

TRIPPET,
District Judge.

[Endorsed]: No ——. United States Circuit Court of Appeals for the Ninth Circuit. Mid-California Citrus Association, Appellant, vs. Fred Stebler, Appellee. Order Extending Time to File Record and Docket Cause to February 1st, 1917. Filed February Dec. 4, 1916. F. D. Monckton, Clerk.

*In the United States Circuit Court of Appeals for
the Ninth Circuit.*

MID-CALIFORNIA CITRUS ASSOCIATION,
Appellant,

vs.

FRED STEBLER,

Appellee.

**Order Extending Time to and Including April 1,
1917, to File Record and Docket Cause.**

Good cause appearing therefor, it is hereby ordered that the time for filing the record and docketing the cause in the United States Circuit Court of Appeals in the above-entitled cause be extended to and including the 1st day of April, 1917.

Los Angeles, California, January 30, 1917.

TRIPPET,
District Judge.

[Endorsed]: No ——. United States Circuit Court of Appeals for the Ninth Circuit. Mid-California Citrus Association, Appellant, vs. Fred Stebler, Appellee. Order Extending Time to File Record and Docket Cause, to and Including Apr. 1, 1917. Filed Feb. 3, 1917. F. D. Monckton, Clerk.

No. 2961. United States Circuit Court of Appeals for the Ninth Circuit. Mid-California Citrus Assn., a Corporation, vs. Fred Stebler. Two Orders Under Rule 16 Enlarging Time to April 1, 1917, to File Record Thereof and to Docket Case. Refiled Mar. 29, 1917. F. D. Monckton, Clerk. *85.*